

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION – CINCINNATI**

PAUL HENRY GIBSON,	:	
	:	Case No. 1:22-cv-697
Petitioner,	:	
	:	Judge Matthew W. McFarland
v.	:	Magistrate Judge Michael R. Merz
	:	
TIM SHOOP, Warden,	:	
	:	
Respondent.	:	

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**ENTRY AND ORDER**

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This matter is before the Court upon the Report and Recommendations (Doc. 24), Supplemental Report and Recommendations (Doc. 35), and Second Supplemental Report and Recommendations (Doc. 38) (collectively, the “Reports”) of United States Magistrate Judge Michael R. Merz, to whom this case is referred pursuant to 28 U.S.C. § 636(b). The Reports recommend that Respondent’s Motion to Dismiss (Doc. 21) be granted. (*See* Doc. 24.) Petitioner filed Objections to all three Reports. (Docs. 33, 36, & 39.) Thus, the matter is ripe for the Court’s review.

As required by 28 U.S.C. § 636(b) and Federal Rule of Civil Procedure 72(b), the Court has completed a *de novo* review of the record in this case. Upon review, the Court agrees with the thorough analysis contained in the Reports. The Court finds that Petitioner’s Objections have been fully addressed and adjudicated in the Reports. Nonetheless, the Court will address Petitioner’s Objections to ensure a clear statement of the basis for the Court’s findings.

Petitioner's first objection to the Magistrate Judge's Reports focuses on Grounds Five through Fifteen of his habeas petition. (*See* Objections, Doc. 39.) Petitioner maintains that he can preserve his objections to the dismissal of Grounds Five through Fifteen for a later date. (*Id.* at Pg. ID 845.) In support of this argument, Petitioner cites to his request for a stay pending the outcome of the related state court cases. (*See id.*) However, this Court denied that request on April 25, 2023. (*See* Decision and Order Denying Renewed Motion to Stay, Doc. 32.) In that Order, the Court emphasized that Petitioner must make his objections on those ground no later than May 1, 2023. (*Id.*) As Petitioner has made no timely objections to the dismissal of Grounds Five through Fifteen, he waived the opportunity to do so. *See Thomas v. Arn*, 474 U.S. 140, 155 (1985) (a petitioner who fails to make timely and specific objections to a magistrate judge's report forfeits his right to appeal the aspects of the report to which he did not object).

In Petitioner's second objection, he maintains that he is entitled to the equitable tolling of the statute of limitations for Grounds One through Four because he was hospitalized for an extended period. (Objections, Doc. 39, Pg. ID 845-46.) As noted by the Magistrate Judge, Petitioner has failed to provide the Court with the medical records related to that hospital stay. (*See* Supplemental Report and Recommendations, Doc. 35, Pg. ID 824.) Though, even if Petitioner had provided the necessary medical records and the Court had tolled the statute of limitations, Petitioner's petition would still be untimely. (*See* Second Supplemental Report and Recommendations, Doc. 38, Pg. ID 841.)

### Conclusion

Accordingly, the Court **ADOPTS** the Report and Recommendations (Doc. 24), Supplemental Report and Recommendations (Doc. 35), and Second Supplemental Report and Recommendations (Doc. 38) in their entirety. The Court **ORDERS** the following:

- (1) Respondent's Motion to Dismiss (Doc. 21) is **GRANTED**;
- (2) Petitioner's Petition Under 28 U.S.C. § 2254 for Writ of Habeas Corpus by a Person in State Custody (Doc. 5) is **DISMISSED WITH PREJUDICE**;
- (3) The Court **CERTIFIES** pursuant to 28 U.S.C. § 1915(a)(3) that, for the reasons discussed above, an appeal of any Order adopting these Reports would not be taken in good faith, and therefore, deny Plaintiff leave to appeal in forma pauperis. *See McGore v. Wrigglesworth*, 114 F.3d 601 (6th Cir. 1997);
- (4) This case is **TERMINATED** from the Court's docket.

**IT IS SO ORDERED.**

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO

By:   
JUDGE MATTHEW W. McFARLAND